

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES FOR THE USE AND ) Civil No. 13cv2057 H(RBB)  
BENEFIT OF BLUE TEE )  
CORPORATION, a California ) NOTICE AND ORDER FOR EARLY  
corporation, dba BROWN-STRAUSS ) NEUTRAL EVALUATION CONFERENCE  
STEEL, )  
Plaintiff, )  
v. )  
CAMPBELL CERTIFIED, INC., a )  
California corporation; )  
HYPOWER, INC., a Florida )  
corporation; THE INSURANCE )  
COMPANY OF PENNSYLVANIA, a )  
Pennsylvania corporation; DOES )  
1-50, )  
Defendants. )  
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HYPOWER, INC., )  
Cross-claimant, )  
v. )  
CAMPBELL CERTIFIED, INC., ROES )  
1-50, inclusive, )  
Cross-defendants. )  
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IT IS HEREBY ORDERED that an early neutral evaluation of your  
case will be held before United States Magistrate Judge Ruben B.

1 Brooks, United States Courthouse, 221 West Broadway, Courtroom 2C,  
 2 San Diego, California, on November 21, 2013, at 2:00 p.m.

3 Pursuant to Rule 16.1(c) of the Local Rules of the United  
 4 States District Court for the Southern District of California, all  
 5 parties (including those who are indemnified by others), claims  
 6 adjusters for insured Defendants and non-lawyer representatives  
 7 with full and unlimited authority<sup>1</sup> to enter into a binding  
 8 settlement, as well as the principal attorneys responsible for the  
 9 litigation, must be present and legally and factually prepared to  
 10 discuss and resolve the case. Corporate counsel shall not appear  
 11 on behalf of a corporation as the party representative who has the  
 12 authority to negotiate and enter into a settlement. Failure to  
 13 attend or obtain a proper excusal will be considered grounds for  
 14 sanctions. (Where the suit involves the United States or one of  
 15 its agencies, only counsel for the United States with full  
 16 settlement authority need appear.) (If Plaintiff is incarcerated  
 17 in a penal institution or other facility, the Plaintiff's presence  
 18 is not required and Plaintiff may participate by telephone. In  
 19 that case, defense counsel is to coordinate the Plaintiff's  
 20 appearance by telephone.)

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 23 <sup>1</sup> "Full authority to settle" means that the individuals at  
 24 the settlement conference be authorized to fully explore settlement  
 25 options and to agree at that time to any settlement terms  
 26 acceptable to the parties. Heileman Brewing Co., Inc. v. Joseph  
 27 Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have  
 28 "unfettered discretion and authority" to change the settlement  
 position of a party. Pitman v. Brinker Int'l, Inc., 216 F.R.D.  
 481, 485-86 (D. Ariz. 2003). The purpose of requiring a person  
 with unlimited settlement authority to attend the conference  
 includes that the person's view of the case may be altered during  
 the face-to-face conference. Pitman at 486. A limited or a sum  
 certain of authority is not adequate. Nick v. Morgan's Foods,  
Inc., 270 F.3d 590 (8th Cir. 2001).

1 Plaintiff's(s') counsel shall give notice of the early neutral  
2 evaluation conference to all defendants filing an answer after the  
3 date of this notice.

4 All conference discussions will be informal, off the record,  
5 privileged and confidential. Absent good cause shown, if any  
6 party, counsel or representative fails to promptly appear at the  
7 settlement conference, fails to comply with the terms of this  
8 Order, including the failure to timely provide the settlement  
9 conference memoranda WHEN REQUESTED, is substantially unprepared to  
10 meaningfully participate in the settlement conference, or fails to  
11 participate in good faith in the settlement conference, the  
12 settlement conference may be vacated and sanctions may be imposed  
13 pursuant to Rules 16(f) and 37(b)(2)(B), (C), and (D), Federal  
14 Rules of Civil Procedure.

15 In the event the case does not settle at the early neutral  
16 evaluation conference, the parties shall also be prepared to  
17 discuss the following matters at the conclusion of the conference:

18 1. Any anticipated objections under Federal Rules of Civil  
19 Procedure 26(a)(1)(E) to the initial disclosure provisions of  
20 Federal Rule of Civil Procedure 26(a)(1)(A-D);

21 2. The scheduling of the Federal Rule of Civil Procedure 26  
22 (f) conference (except in patent cases where no later than twenty-  
23 one days before the early neutral evaluation conference, the  
24 parties are to meet and confer pursuant to Rule 26(f));

25 3. The date of initial disclosure and the date for lodging  
26 the discovery plan following the Rule 26(f) conference; and

27 4. The scheduling of a case management conference pursuant to  
28 Federal Rule of Civil Procedure 16(b).

1 The Court will issue an order following the early neutral  
2 evaluation conference addressing these issues and setting dates as  
3 appropriate.

4 Questions regarding this case may be directed to the  
5 magistrate judge's research attorney at (619) 557-3404.

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7 Dated: October 24, 2013

  
RUBEN B. BROOKS  
United States Magistrate Judge

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9 cc: All Parties of Record  
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27 A Notice of Right to Consent to Trial Before a United States  
28 Magistrate Judge is attached for your information.

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**NOTICE OF RIGHT TO CONSENT TO TRIAL BY UNITED STATES  
MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. § 636(c), you are hereby notified that a United States Magistrate Judge of this district may, upon the consent of all parties, conduct any or all proceedings, including a jury or non-jury trial, and order the entry of a final judgment. Consent forms are available in the Clerk's office. Counsel for the Plaintiff shall be responsible for obtaining the consent of all parties, should they desire to consent.

You should be aware that your decision to consent or not to consent is entirely voluntary and should be communicated solely to the Clerk of the Court. Only if all parties consent will the district judge or magistrate judge to whom the case has been assigned be informed of your decision.

Judgments of the United States Magistrate Judges are appealable to the United States Court of Appeals in accordance with this statute and the Federal Rules of Appellate Procedure unless the parties at the time of their consent to trial before a magistrate judge agree upon review by the United States District Court.